



**CITY OF SUNNYVALE
REPORT
Planning Commission**

May 24, 2004

SUBJECT: **2004-0322 –Suhas P. Bagne** [Appellant]: Application for a 7,614 square foot site located at **702 Chopin Drive** in an R-0 (Low Density Residential) Zoning District. (APN: 211-29-019)

Motion Appeal of a decision by the Director of Community Development approving a Miscellaneous Plan Permit for a six-foot tall fence in the required reducible front yard.

REPORT IN BRIEF

Existing Site Conditions Single Family Residential

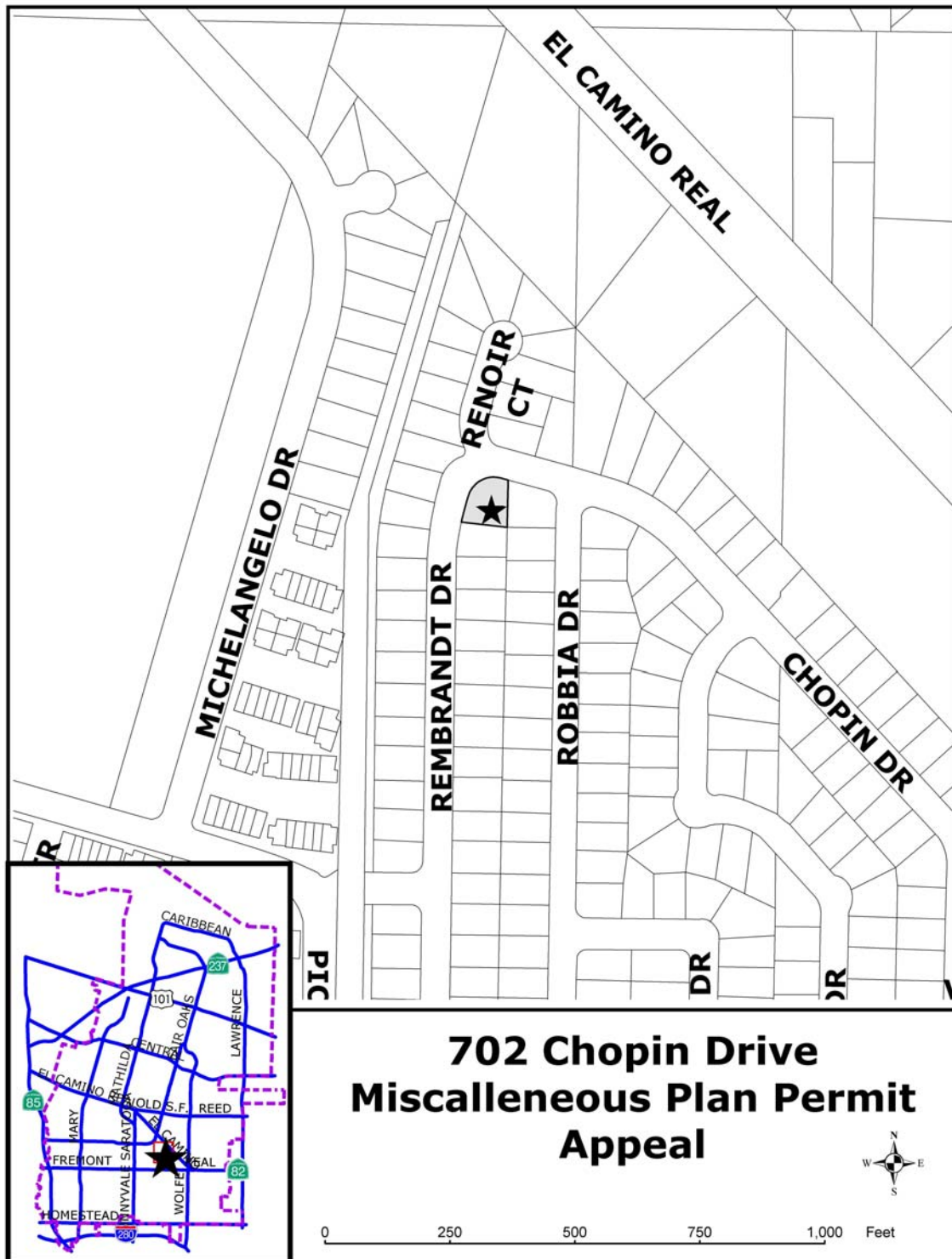
Surrounding Land Uses

North	Single Family Residential
South	Single Family Residential
East	Single Family Residential
West	Single Family Residential

Issues Neighborhood Aesthetics

Environmental Status A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny of the Appeal and uphold the decision to approve the fence.



PROJECT DATA TABLE

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED/ PERMITTED</u>
General Plan	Low Density Residential	Same	---
Zoning District	R-0	Same	---
Lot Size (s.f.)	7,614 s.f.	Same	6,000 min.

ANALYSIS**Background**

On April 16, 2004, a Miscellaneous Plan Permit was approved by the Director of Community Development to allow the construction of a 6 foot tall solid wood fence to be located in the required reducible front yard at the property located at 702 Chopin Drive (See Attachment 3, Site Plan and Fence Detail). A Miscellaneous Plan Permit is required for fences that are up to 6 feet in height and located in the required reducible front yard. A fence agreement with adjacent neighbors was not obtained as fence agreements are not required for fences located in the reducible front yard.

The Sunnyvale Municipal Code allows that Miscellaneous Plan Permits may be appealed by anyone within 15 days after approval, they are appealed to the Planning Commission and the Planning Commission's decision is final.

On April 29, 2003 the Miscellaneous Plan Permit was appealed by an adjacent property owner due to concerns with the height and design of the solid wood fence (See Attachment 6, Letter from Appellant, April 29, 2004).

A summary of concerns by the appellant are the following:

- The neighborhood will begin to look walled in and detract from appearance and quality of their front yard as well as the street.
- A one foot wide "dead zone" will be created if the proposed fence is installed parallel to the appellant's existing 3-1/2 foot picket fence due to an existing concrete condition between properties.
- According to the appellant, other neighbors in the area have expressed similar concerns.

Description of Proposed Project**Location**

The subject property is located on a corner lot at Rembrandt Drive and Chopin Drive. The proposed 6 foot tall fence would be located on the property line which is within the required reducible front yard, there would be about 5-1/2 feet of landscape area between the sidewalk and fence. The fence would be located along the Rembrandt side (west side) of the applicant's property and would be located approximately 1 foot from the adjacent 3-1/2 foot wood picket fence (appellant's property). (See Attachment 3, Fence Site Plan Enlargement). An existing one foot wide flush concrete strip is located between the appellant's 3-1/2 foot tall fence and the applicant's proposed 6 foot tall fence. The applicant has proposed that the appellant may place planted containers along this concrete strip to assist with screening the proposed 6 foot fence and enhancing the appellant's side yard view.

Design

The proposed fence would be 6 feet in height and 52 feet in length along Rembrandt Drive in the required reducible front yard setback and will connect back to the house at a length of 13 feet. (See Attachment 3, Fence Detail). The proposed design is solid board-on-board construction. The proposed fence design and height matches an existing fence located on the next door neighbor's property to the east of the subject property along Chopin Drive. (See Attachment 8, Vicinity Map)

Privacy for a Corner Lot

The applicant provided a letter dated May 6, 2004 describing the purposes of the height and location of the proposed fence. (See Attachment 7, Letter from the Applicant- May 6, 2004). The primary goal was to expand an existing narrow rear yard by utilizing existing usable area in the reducible front yard. (See Attachment 4, Existing Site Photos). The proposed location of the fence would increase the size of the private rear and reducible front yard by approximately 675 square feet.

The 6-foot tall board on board solid wood fence has been proposed to provide privacy for the rear and reducible front yard. Shorter fence heights and designs were explored but did not, in the property owners view, provide adequate rear yard privacy.

Vision Triangle

The subject site is located on a corner lot and; therefore, must comply with the corner vision triangle requirements. The corner vision triangle is formed by measuring 40 feet along each property line from the corner where the two street sides of the property meet. Connecting these two lines with a diagonal line completes the triangle and forms the vision triangle. Fences, hedges,

shrubs or other natural objects 3 feet or less in height may be located within a vision triangle.

The proposed 6 foot fence is not located in the corner vision triangle; therefore, it meets the corner vision triangle requirements.

Environmental Review

A Class 11 Categorical Exemption for accessory structures relieves this project from California Environmental Quality Act provisions and City Guidelines.

Compliance with Development Standards

The proposed fence meets the required corner vision triangle requirements and generally meets the Single Family Home Design Techniques for fences.

<i>Single Family Home Design Techniques</i>	
<i>3.11.G. Fencing along front property lines and along side property lines within front yard setback areas should not exceed three feet in height.</i>	The proposed 6 foot fence is located in the <u>reducible</u> front yard and is not located in the formal front yard setbacks.
<i>3.11.G. Side fencing may be solid wood boards, but open latticework segments at the top of the wall are softer in appearance and encouraged.</i>	The fence is proposed to be a solid wood board on board design in order to match an existing fence located on the next door neighbors' property to the east of the subject property along Chopin Drive.
<i>3.11.G. For side property lines abutting a public street, low fencing is encouraged. However, when privacy is at issue, fences should be constructed of wood up to a maximum of 6 feet with at least the top twelve inches constructed of wood lattice to soften the visual appearance of the fence top.</i>	The proposed fence height would be a maximum of 6 feet tall and a solid board on board design in order to provide privacy for the rear yard; however, the fence design does not include a wood lattice top.
<i>3.11.G. Chain link fencing is strongly discouraged.</i>	The fence would be constructed from wood.

Expected Impact on the Surroundings

There are two examples of 3-foot tall front yard picket fences on Rembrandt Drive, the appellant's and the neighbor located directly across the street from the appellant. There is one example of a 6-foot solid board-on-board existing side yard fence located on the next door neighbor's property to the east of the subject property along Chopin Drive. Additionally there is one example of a 6-foot masonry front yard fence with overgrown plant material located to the

northwest of the subject property along Renoir. (See Attachment 5, Photos of Frontyard Fences within the Surrounding Neighborhood). With the exception of the four fences mentioned there are no other examples of front or reducible front yard fences in the vicinity. (See Attachment 8, Vicinity Map)

Staff Discussion

Six foot tall solid wood fences (and taller) along the reducible front yard property lines are common in other R-0 neighborhoods. Staff discussed design options with both the applicant and appellant to see if a compromise could be found in regards to the construction of the 6 foot tall wood fence. The applicant indicated to staff that a 6 foot solid wood construction was desirable in order to provide privacy in the rear yard. The appellant did not provide a desired alternative fence design. Staff was not able to mediate an agreement. Staff has suggested the possibility and availability of professional mediation services to both parties. Both parties have declined.

Findings, General Plan Goals and Conditions of Approval

Staff is recommending denial of this Appeal because the Findings (Attachment 1) for the Miscellaneous Plan Permit could be made.

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Posted on the site• Mailed 10 notices to the adjacent property owners of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website

No public correspondence other than the appeal has been received for this project.

Alternatives

1. Deny the appeal of the Miscellaneous Permit and uphold the decision of the Director of Community Development.
2. Grant the appeal of the Miscellaneous Permit with the recommended conditions of approval.
3. Grant the appeal of the Miscellaneous Permit with the modified conditions of approval.

Recommendation

Prepared by:

Erin Megan Walters
Project Planner

Reviewed by:

Fred Bell
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

1. Findings
2. Conditions of Approval
3. Site Plan, Fence Detail and Fence Site Plan Enlargement
4. Existing Site Photos
5. Photos of Front Yard Fences within the Surrounding Neighborhood
6. Letter from Appellant- April 29, 2004
7. Letter from the Applicant – May 6, 2004
8. Vicinity Map

Recommended Findings – Miscellaneous Plan Permit

The director or planning commission may approve any miscellaneous plan permit, as it finds desirable in the public interest, upon finding that the permit will either:

1. Attain the objectives and purposes of the general plan of the city of Sunnyvale

The project's design and height meet the intent of the requirements of the "Single Family Home Design Techniques" as the proposed fence located in the required reducible front yard property would be a maximum of 6 feet tall with a solid board on board design in order to provide privacy for the rear yard.

2. Ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties.

The proposed project's design and height is in keeping with the character of the neighborhood and existing uses. The proposed use will not impair the existing use of the adjacent property, as there is currently an existing 3-1/2 foot fence located between the properties. Additionally the proposed 6 foot tall fence meets the corner vision triangle requirements for visibility purposes.

Conditions of Approval – Miscellaneous Plan Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances and Resolutions, the Permittee expressly accepts and agrees to comply with the following Conditions of Approval for this Permit.

1. The one-year expiration date of the Miscellaneous Plan Permit shall be measured from the date of the approval by the final review authority at a public hearing if the approval is not exercised.
2. This project must be in substantial conformance with the approved plans. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved at the staff level by the Director of Community Development.